THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :14094 of 2006

DATED:05-03-2007

BETWEEN:

M.Lakshmikumari.

.....
PETITIONER

AND

Vijayawada, Guntur, Tenali,Mangalagiri
Urban Development Corporation,
Rep., by its Vice Chairman,
Vijayawada, Krishna District & 2 others.

.....RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner; learned standing counsel appearing for respondents 1 and 2; and the learned counsel appearing for the 3rd respondent.

2. Petitioner seeks a writ of certiorari calling for the records relating to the notice in the proceedings issued by the 2nd respondent herein bearing Rc.No.C5-2198/2005 dated 22-06-2006 in respect of D.No.15-16, 15-17 in R.S.No.583/4 situate in Gollapudi village, Krishna District from the respondents herein, and consequently direct the respondents not to take any coercive steps against the petitioner.

3. It is the case of the petitioner that she is the owner and possessor of the building bearing D.No.15-16, 15-17 in R.S.No.583/4 situate in Gollapudi village, Krishna District, and she made an application before the 1st respondent for according permission to construct a new building and accordingly, the 1st respondent considered the said application and approved the plan for construction of the residential building with ground + two floors and part of the 3rd floor in the said survey No.583/4 of Gollapudi village vide B.P.No.122/2004, dated 13-06-2005. The field staff of the respondent authorities inspected the site on 05-09-2005 and

found that the petitioner has completed the foundation upto the basement level and continuing the construction in deviation to the approved plan and in violation of the Zoning Regulations.

4. It is the case of the petitioner that no notice has been issued pointing out the deviations and violations of the Zoning Regulations but only on receipt of the impugned order in RC.No.C5/2198/2005, dated 22-06-2006, he came to know about the same. Though the impugned order goes to show that a show cause notice, dated 14-10-2005, has been issued the said notice was not at all issued and no order stopping the construction was ever issued. The impugned order discloses about the violations, and deviations each floorwise, and that sufficient open space towards the house of the 3rd respondent was not left.

5. In the counter filed on behalf of the respondents 1 and 2 it is stated that the show cause notice was served on the Watchman of the petitioner in the petition site as the petitioner was not available at that time.

6. Learned counsel appearing for the petitioner submits that none of the field staff of the respondents 1 and 2 inspected the building of the petitioner and that there are no deviations and neither the show cause notice nor any order directing the petitioner to stop the construction was ever issued. Therefore, I am not inclined to express any opinion with regard to the said contention. In the counter it is further stated that the show cause notice was served on the Watchman of the petitioner only. Therefore, I am of the opinion that it is just and proper to direct the petitioner to file an explanation treating the impugned order as a show cause

notice.

7. Accordingly, the Writ Petition is disposed of directing the petitioner to file an explanation treating the impugned order as show cause notice within one week from today irrespective of the despatch of the order from this Court and if any such explanation is filed within one week from today, the 2nd respondent may consider and pass appropriate orders after giving reasonable opportunity to the petitioner as well as the 3rd respondent in accordance with law, and take appropriate action strictly in conformity with the provisions of the A.P.Urban Areas Development Act, 1975 as well as the Municipal Corporation Act. Till the final orders are passed by the 2nd respondent the petitioner shall not make any further constructions or make available any of the said portions for occupation. No order as to costs.

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V.ESWARAIAH,J

05th March, 2007.

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